IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN

&

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WA.No. 503 of 2007(A)

AGAINST THE JUDGEMENT IN WPC.34519/2004

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APPELLANTS: APPELLANTS/R.P./PETITIONERS 1,3,6,7,8,11,12.14.15.

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1. SMT.USHA.A.,
   RALIVILA VEEDU,MUKKOLA,MULLOOR P.O.,
   THIRUVANANTHAPURAM.

2. SMT.SHEELA .S.,
   EDATHOPPIL VEEDUY,ARUVIPPURAM P.O.,
   NEYYATTINKARA,THIRUVANANTHAPURAM.

3. SMT.GEETHA V.R.,
   T.C.28/487,GANDHI NAGAR,KAITHAMUKKU,
   EPETTAH,THIRUVANANTHAPURAM.

4. SMT.SHEELA R.S.,S.J.COTTAGE,
   MACHAMCODE,KARAKONAM P.O.,NEYYATTINKARA,
   THIRUVANANTHAPURAM.

5. SMT.SUJATHA C.D.,
   SHIJOY BHAVAN,MULLUVILA P.O.,NEYYATTINKARA,
   THIRUVANANTHAPURAM.

6. SMT.SAJU C.D.,
   CHAKKICHERY HOUSE,KIDANGOOR P.O.,ANAGAMALY,
   ERNAKULAM DISTRICT.

7. SMT.SHEEJA.M.,
   SHAJI VILASAM BUNGLAW,MULLUVILA P.O.,
   NEYYATTINKARA,
   THIRUVANANTHAPURAM.

8. SMT.SAILAJA.S.,
   KEEZHEKARANTHIVALA,PUTHENVEEDU,
   MULLOOR P.O.,THIRUVANANTHAPURAM.

9. SRI.ANILKUMAR.C.,KUDAVILA VEEDU,
KAZHAKOOTTAM P.O.,THIRUVANANTHAPURAM.

10. SMT.REENA M,,
SHAJI VILASAMMA BUNGLAW,MULLUVILA P.O.,
NEYYATTINKARA,
THIRUVANANTHAPURAM.

11. SRI.BIJU GEORGE,
KOLLAMANVILA PUTHEN VEEDU,PERUNGALLOOR,
AYOOR P.O.,KOLLAM.

12. SRI.PUSPANGATHAN,K.K.,
KOLLANTEKANDI HOUSE,KAYAANNA BAZAR P.O.,
PERAMBRA,KOZHIKODE/.

13. SMT.AMBIKA M.G.,
G.S.BUNGLAW,KATTCHALKUZHI P.O.,
BALARAMAPURAM,
THIRUVANANTHAPURAM.

14. SMT.M.G.PUSHPALEELA,
G.S.BUNGLAW,KATTACHALKUZHI P.O.,
BALARMAPURAM,
THIRUVANANTHAPURAM.

15. SRI.SURESH KUMAR G.S.,
G.S.BUNGLAW,KATTAHCLAKUZHI P.O.,
BALARAMAPURAM,
THIRUVANANTHAPURAM.

16. SRI. BIJU C.,
KALARICKAL THUNDIL,MUDIYOORKONAM P.O.,
PANDALAM,
PATHANAMTHITTA.

17. SRI.SHAJI S.,
SREE VILASAM,MUDIYOORKONAM P.O.,
PANDALAM,PATHANAMTHITTA.

18. SRI.HARI.V.,
KANNAMKARA,MUKKADIYIL,,MUDIYOORKONAM P.O.,
PANDALAM,PATHANAMTHITTA.

19. SRI.SABUJAN,
MARUTHIMOOTTIL,KAITHODU,NILAMEL,
KOLLAM.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV

RESPONDENTS: RESPONDENTS/RESPONDENTS
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1. STATE OF KERALA,
REP. BY THE SECRETARY,
PUBLIC WORKS DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY,IRRIGATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER,
PUBLIC WORKS (ROADS & BUILDINGS) DEPARTMENT,
THIRUVANANTHAPURAM.

4. THE CHIEF ENGINEER (IRRIGATION &
ADMINISTRATION),THIRUVANANTHAPURAM.

5. KERALA PUBLIC SERVICE COMMISSION,
REP. BY ITS SECRETARY,
P.S.C. OFFICE,
PATTOM,THIRUVANANTHAPURAM.

SUPPL.6. LIJI POTHAN, KOTTARATHIL HOUSE, NEAR CENTRAL JUNCTION, PAMPADI P.O., KOTTAYAM.

SUPPL.7. AMMUKUTTY JOSEPH, KUTTIYIL HOUSE, PUTHANANGADY PO KOTTAYAM-1.

SUPPL.8. LALI T.R., THEKKEPARAMBIL HOUSE, PUNNAPRA P.O., ALAPPUZHA.

SUPPL. RESPONDENTS 6 TO 8 ARE IMPLEADED AS PER ORDER ON IA 568/07 DATED 19.7.2007.

BY GOVERNMENT PLEADER SRI. BENNY GERVASIS FOR R1 TO R4
SRI.P.C.SASIDHARAN, SC, KPSC FOR R5
SRI.M.V.BIPIN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.Radhakrishnan
&
Antony Dominic, JJ.
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W.A.No.503 of 2007
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Dated this the 19th day of July, 2007.

JUDGMENT

Radhakrishnan,J.

Writ Petition was preferred by the appellants herein seeking a direction to respondents 1 to 4 to report all the existing vacancies of III Grade Overseer to the Public Service Commission and also for other consequential reliefs. Petitioners were included in the rank list published by the Public Service Commission for appointment to the post of III Grade Overseer/Tracer in the Public Works Department and Irrigation Departments. Their complaint is that the appointing authority had failed to report the vacancies which were actually available in the P.W.D. and Irrigation Departments. This Court had passed an interim order on 6.12.2004 directing the Chief Engineers of the concerned Departments to report 202 vacancies of III Grade Overseers in the Public Works Department and 602 vacancies in

the Irrigation Department and vacancies were reported.

2. Learned Government Pleader submitted that only 27 vacancies were available as on 31.12.2004. Out of that, 8 vacancies were reported and advised. Remaining vacancies are only 19 which were also reported. Learned single Judge disposed of the Writ Petition directing the Public Service Commission to advise candidates to 19 vacancies of III Grade overseer, reported from the Irrigation Department.

3. Appellants have filed I.A.No.441 of 2007 along with various materials collected under the Right to information Act to show that a large number of vacancies were available for reporting, but were not reported. This Court therefore gave direction to the Government Pleader to ascertain whether the details furnished by the appellants are correct or not. Accordingly, a statement has been filed on behalf of the third respondent – Chief Engineer Public Works (Roads & Buildings) Department stating that the information furnished is incorrect. It is stated that the Chief Engineer alone is the authority to assess the vacancies and to take further proceedings for filling up of the same. It is also stated in the statement that the total cadre

strength of III Grade Overseers in the Department is 1613 out of which 400 Overseers have been deployed to the Local Self Government Department. The post deployed to the Local Self Government Department remains vacant and these posts are kept vacant in those offices which have lesser amount of work. Therefore, it is not necessary that the posts of deployed hands remains vacant in the same office from which they have been deployed. Further, it is stated that none of these Subordinate Officers are authorised or empowered to assess the vacancies or to report the same to any authority but had issued the same since they were demanded for under the Right to information Act. The Chief Engineer has stated that the information furnished are not correct. A statement has been filed by the fourth respondent also. It is stated in the statement that the total cadre strength of III Grade Overseers in the Department is 1431 out of which 543 overseers have been deployed to the Local Self Government Department. Further it is also stated that none of these Subordinate Officers are authorised or empowered to assess the vacancies or to report the same to any authority. Therefore it is submitted that no vacancies of III Grade Overseers existed as on

31.12.2004. Going by the statement made by the Chief Engineer no vacancies existed as on 31.12.2004. Now, the list has expired on 31.12.2004 and this Court at this distance of time not justified in giving a direction to operate a time expired list.

Writ Appeal is dismissed.

K.S.Radhakrishnan,
Judge.

Antony Dominic,
Judge.

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